

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

KYKO GLOBAL, INC., *et al*,

Plaintiffs,

v.

PRITHVI INFORMATION SOLUTIONS,
LTD., *et al*,

Defendants.

Civil Action No. 2:18-cv-1290

Hon. William S. Stickman IV

ORDER OF COURT

The SSG Defendants (SSG Capital Partners I, L.P., SSG Capital Management (Hong Kong) Limited, Edwin Wong, Andreas Vourloumis, Shyam Maheshwari, Dinesh Goel, and Ira Syavetri Noor) filed a Motion for Judgment on the Pleadings seeking dismissal of Counts 2-6 of Plaintiffs' Complaint. (ECF No. 170). Defendant Anandhan Jayaraman joined in the Motion. (ECF No. 182). The moving Defendants argue that Plaintiffs' Civil Rico claim, as well as their common law claims, are barred by the applicable statutes of limitations.

Statutes of limitations are affirmative defenses. "Pursuant to Rule 12(c), a court may grant judgment on the pleadings in favor of a defendant on the basis of a statute of limitations defense only if it is clear from the face of the pleading that the defense applies." *Germinaro v. Fidelity National Title Insurance Co.*, 107 F.Supp.3d 439, 452 (W.D.Pa. 2015). "[W]hile a court may entertain a motion to dismiss [or a motion for judgment on the pleadings] on statute of limitations grounds, it may not allocate the burden of invoking the discovery rule in a way that is inconsistent with the rule that a plaintiff is not required to plead, in a complaint, facts sufficient to overcome an affirmative defense." *Schmidt v. Skolas*, 770 F.3d 241, 251 (3d. Cir. 2015). Where the question of when the limitations period began to run is not clear from the face of the pleadings, judgment

may not be entered. *Schmidt*, 770 F.3d at 251 (“Only where the facts are so clear that reasonable minds *cannot differ* may the commandment of the limitations period be determined as a matter of law.”).

This case is factually and legally complex. While the moving Defendants have argued that the commencement of the limitations periods for Plaintiffs’ RICO and common law claims is clear from the face of the Complaint, the Plaintiffs have set forth detailed arguments that their claims are timely. Careful review of the pleadings compels the Court to hold that it cannot, at this stage, determine whether Plaintiffs’ claims were untimely. In other words, it is simply not “clear from the face of the pleading that the [statute of limitations] defense applies.” *Germinaro*, 107 F.Supp.3d at 452. Defendants are free, of course, to reassert their statute of limitations defenses at summary judgment, after a record has been developed. But at this stage, their motion for judgment on the pleadings is DENIED.

October 5, 2020

BY THE COURT:

A handwritten signature in black ink, appearing to read "W S STICKMAN IV", written over a horizontal line.

WILLIAM S. STICKMAN IV
UNITED STATES DISTRICT JUDGE